

**MINUTES FOR THE  
MEETING OF THE  
BOARD OF LAND OF NATURAL RESOURCES**

DATE: FRIDAY, MARCH 23, 2012  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:08 a.m. The following were in attendance:

**MEMBERS**

William Aila, Jr.  
David Goode  
Jerry Edlao

Ron Agor  
Dr. Sam Gon  
John Morgan

**STAFF**

Sam Lemmo/OCCL  
Dr. Bob Nishimoto/DAR  
Russell Tsuji/LAND  
Carty Chang/ENG

Jason Miyasaki/DOFAW  
Scott Fretz/DOFAW  
Curt Cottrell/PARKS  
Alyson Yim/ENG

**OTHER**

Linda Chow, Deputy Attorney General  
Yvonne Izu, K-1  
Alan Murakami, K-1  
Amelia Gora, K-1  
Sandy Pfund, K-1  
Kelly Okumura, M-1, M-2, M-5  
Joanne Izumi, M-4

Dean Uchida, K-1  
Michael Kumukauoha Lee, K-1  
Henry Chang Wu, K-1  
Donna Kiyosaki, K-1  
David Tanoue, K-1  
Abby Lareau, M-3, M-6  
Edona Queja, M-4

{NOTE: Language for deletion is [bracketed], new/added is underlined.}

**Item A-1 February 10, 2012 Minutes**

Members Gon and Goode recused from item A-1.

**Approved as submitted (Edlao, Agor)**

**Item A-2 February 24, 2012 Minutes**

Member Goode recused from item A-2.

**Approved as submitted (Edlao, Gon)**

**Item A-3 Amended September 23, 2011 Minutes**

Chair Aila noted that Shelly Mahi requested to amend the 3<sup>rd</sup> page from the bottom and it's up to the Board.

Member Goode asked the Board Secretary, Adaline Cummings, whether this is what was said on the recording and she confirmed this.

**Unanimously approved as submitted (Goode, Agor)**

**Item K-1 Conservation District Use Application (CDUA) OA-3604 for a Portion of the Kaloi Gulch Drainage Improvements by Haseko (Ewa) Inc., University of Hawaii - West Oahu, Department of Hawaiian Homelands, City & County of Honolulu - Department of Planning and Permitting Located at Oneula Shoreline/Submerged land, Ewa, Island of Oahu, Makai of TMKs: (1) 9-1-011:007 & (1) 9-1-134:006**

Sam Lemmo representing Office of Conservation and Coastal Lands (OCCL) conveyed some background on item K-1 which was re-submitted with multiple applicants and why this project is necessary. The project involves lowering a natural berm at the shoreline to allow storm water to flow to the ocean periodically and using berm material to raise the banks to control the flow. He gave more details from page 5. The berm is not a culvert box type system which staff has issues with because it cuts through the shoreline, affects access, affects beach process and is unsightly. The natural berm would be retained as a natural feature. It is only designed to overflow during 10 year flood events. Staff related some concerns to the applicant(s) during this CDUA process and the applicant's response is shown on page 7 of the submittal. If they do not lower the berm, upland development will be constrained and stakeholders will be affected. All applicants spoke favorably of this project. Staff prefers these types of projects because they are more environmentally sensitive. Staff recommends approving the project subject to conditions.

Member Gon made a query on whether Mr. Lemmo could summarize on Native Hawaiian Legal Corp.'s comment on page 11 and Mr. Lemmo said he could not at this time.

Member Morgan asked whether there was any flood damage from the 10 year or recently. Mr. Lemmo said they referenced the 1996 event, but he wasn't sure about the most recent rains.

Dean Uchida representing SSFM, International testified that the Kaloi Gulch Drainage is unique that they got all the owners and developers around Kaloi Gulch to cooperate in coming up with a solution. Because of all the projects there were interim steps needed to be done and developed before the full drainage solution was constructed. Because Haseko is at the mouth they control everything, but as Haseko was being built other projects were being built along the line. A group of all the engineers from all the project developers got together and came up with what the solution should be for drainage from Ewa Villages to Haseko's makai property. People along that route could only add to the existing natural flow condition and couldn't channelize their development flow into it – they had to retain/detain which lead to the construction of all the golf courses. Mr. Uchida related how Department of Hawaiian Home Lands (DHHL) development was built recently and drainage from that North-South Road area would flow into the golf course. Lowering of the berm will allow the lands set aside by the University of Hawaii – West Oahu (UHWO) and DHHL for a retention basin. UHWO has 2 drainage basins totaling 21 acres and depending on the development you are looking at a savings of 8 to 11 acres of land which will be put into inventory and not set aside as a retention basin. Department of Transportation (DOT) indicated they are going to turn over all the North-South Road drainage basin land to DHHL because they own all that land on the other side of North-South Road including the drainage basin. If they can remove or reduce the size of the retention basin at North-South Road DHHL stands to gain whatever land area that might be. The lands the State would gain would be a significant value in the long term. That is the difference between the last proposal and this proposal which is why there are more government agencies on this one.

Member Edlao asked whether there will be monitoring of the water quality in the area. Yvonne Izu, counsel for Haseko said that if the Board includes as a condition to this permit water quality monitoring to be done, and it will be done, it is her guess that Haseko will be responsible for that water quality monitoring and she noted that Haseko does quarterly water quality monitoring for a number of different permits currently. If there is a water quality monitoring condition attached to this permit the difference would be probably not to be done on a quarterly basis, but whenever it's needed. Member Edlao said he is more concerned when a storm is coming that Haseko would have to go out and clean that area. It would be a good idea to check the water quality at that time to see what is coming down. Also with this monitoring, eventually Haseko will turn it over to the State or City & County and he asked what kind of timetable they were looking at. X amount of years or what factor will take it out? Ms. Izu said probably Haseko will work with the City as far as landward side and not the ocean water quality. There have been on-going discussions as to what maintenance the City will be responsible for versus what maintenance Haseko will be responsible for. If there is a water quality monitoring requirement that is something that Haseko would probably work out with the City or maybe a combination of entities.

Member Agor said he likes the project, but the justification for saving the land doesn't seem right. He knows that the natural run off needs to be taken care of and that is how he looks at it and not saving the land. As a developer develops he has to take care of the run off on hard surfaces and he believes each developer has taken care of that. Just on the basis of taking care of

the natural flow minus hard surface is probably justifiable, but to come here and say we got to save land it doesn't cut it.

Michael Kumukauoha Lee testified that he is a Native cultural practitioner of lapa'au 'o ke kai and he had done the Kaloi Gulch contested case and had standing in February 2008. The highest law of the land is our State Constitution subjugated to the Federal Constitution, Article 12, Section 7 and 8 – we will not over regulate or destroy Hawaiian religious or cultural practices as subsistence gathering rights for the health of the Hawaiian people. Right now the reason why there are no brown outs in Ewa is because of these retention dams going up. As you can see the pressure on Hawaii is to save lands and we all know the price of land. Mr. Lee prefers they build up instead of laterally. As for the cultural practice when you take down the natural sand you are taking down the natural filter. His lawsuit in First Circuit Court, the judge came up with 2 rulings that stand and Haseko did not appeal to the Appellate Court so it stands. What that ruling is, tell Mr. Lee is what is the long term cumulative impacts of heavy metals on his cultural practice and if you can't you are not going to do a 5 year study, study the limu (seaweed) and how it gets into the invertebrates, the fish and down the food chain then you are to have a retention dam because that naturally percolates and leaves the heavy metals. Highest law of the land and no state has this, but we do. **It is his intention that if the Board does approve he will stand up for a contested case to do this one more time.** We are talking about the health and safety of our people.

Mr. Lee said what is going on here is nobody wants to set aside retention dams. He is the only recognized cultural descendent of the area. One month ago he put in for an NAGPRA for the Federal and he is in the process of getting lineal descendent for this area. His paperwork and merit is unquestionable and the case with Dr. Maiki proves that. To answer about Brian Lapoint who was brought into the case, it had to do with invasive species of limu with high nitrates that will go into Kaloi Gulch into the coastal region and that will create a bloom of invasive limu that destroys our endemic limu, Article 12, Section 7. Because we want to take the short cut way where we've seen what happened in Waianae with all the medical waste and when those floods do hit we don't have retention dams everything goes into the ocean where you have that orange red water and the pollution that goes with it. The problem with monitoring is if you allow these safe guards to be taken away these natural filtration percolation systems mitigation is after-the-fact. Once all the stuff comes down there is the great unknown then you play catch up saying oh, we never expected this. We just destroyed his cultural practice and just violated the highest law of the land that this was not known that this would happen. According to the Constitution we don't play around with Hawaiian cultural practices or health and this is going to do that. Mr. Lee will sue if they go through this again. The facts are in and it doesn't matter how many people line up to say the pressure is on. How about the pressure to obey Article 12, Section 7 and keep those retention dams because in that process nobody bothered to talk to him. According to SHPD (State Historic Preservation Division) whenever you do any kind of work in a sensitive area you have to talk to the cultural descendent. He was never told about it by law and he is the cultural practitioner that went to First Circuit Court. He was never talked to by any of these groups on what he felt about it protected under Article 12, Section 7. OHA paid for both of those cases and Native Hawaiian Legal Corporation did those cases for him. Now with Ho'opili he is with the Sierra Club for Kaloi Gulch accepted by D. R. Horton as the cultural practitioner for the same dance. Mr. Lee doesn't have anything against development or jobs. All he is

asking for is do the right thing – best use, best practice which is retention dams. Best use means keep our practice alive. The limu at Ewa is diminishing and they are trying to save the last beds out there. Uncle Henry is a part of this and the group that they founded since 1998 to teach people the proper use and management of the limu for conservation purposes under Article 12, Section 7. They went out to places like Maui that are doing the planting and he is doing classes there. They have this continued outreach on all the neighbor islands to ensure that there be limu for our cultural practice in the future.

Alan Murakami representing Native Hawaiian Legal Corporation introduced Henry Chang Wu who is one of the key kupuna of the area and has an immense amount of knowledge about the area and the limu grounds that were once locally well renown for its productivity in the old days. Mr. Murakami emphasized the uniqueness of the area having traveled all over the State in rural areas where kupuna like Uncle Henry tried to retain the old style traditions of Hawaiians as they lived and as they were. But, to retain the resource base that makes Hawaii to the entire world it can contribute to that world in terms of spirit of aloha and traditions of Hawaiians and the cultural values that they bring with them. Uncle Henry is one of the best examples anywhere. Ewa has diminished in productivity, but still has a vibrant resource base especially for limu. Uncle Henry could talk about many other things about that area that has changed its value to the Hawaiian culture. For that reason, as Mr. Lee had indicated was passed and ratified Article 12, Section 7 and it is not window dressing like it was in the first decade since 1978. Their agency has fought and litigated to implement its terms as much as they could over those years and in recent decades the recognition has come about in common legal parlance that Article 12, Section 7 means something and it means something to you in this way. Mr. Murakami referred to the Kapa'a Kai versus Land Use Commission decision which is a monumental case for this very issue because it establishes that all public agencies under the ruling have a duty to do 3 things for every permit that it issues. 1) To investigate what traditional and customary practices exists in the area affected by your permit and this is another person to ask (Uncle Henry). Mr. Murakami has heard no discussion about the extent of those practices and whether in fact they exist. Mr. Chang Wu is here to value that it does exist and that should trigger to fully investigate what those practices are and what extent of those practices are in this area. 2) To assess the impacts of this permit on those practices and determine what could happen should the permit be issued. We heard of that suggestion today, but it is no where near the level of this decision that requires this agency to pursue that level of inquiry. 3) Every agency is supposed to reasonably protect those practices from harm in the future whether by conditions or denying the permit. From what he has heard in terms of the report, it can't be that because there aren't the first two things that had been done. At this point it is still premature and **he is here on behalf of Uncle Henry Chan Wu and requested for a contested case hearing should the Board decide to go forward with this permit**, but urged the Board to deny it.

Henry Chang Wu testified to go up in the airplane and look where this Kaloi Gulch is coming out at; you are looking at a toilet bowl. Going way back the run off came from Makakilo and would spread out over Farrington Highway. What happens now making all these homes you are channelizing this river. The flood control was supposed to go into the Marina. Nothing is going into the Marina now. About 12 years ago they got people to take care of the 'aina (land) because what happens to the 'aina affects our ocean. Once it affects our ocean and the damage is done, it's irreversible. Ewa had all the watersheds, but all the natural resources have been cut off and

without it, without the nutrients from the mountains...look at it this way. We live in an island surrounded by water, staff of life – fresh water. The first rain hits the mountain, the lo'i (taro patch), goes mauka to makai and when it hits the ocean that is when the ocean gives birth. This is what we are losing and people don't understand that. The ocean needs to drink like you or I need to drink. We need oxygen and with any plant its water quality. What is going to happen 30 years from now? What is smart development? The Ewa plains are all screwed up. If you don't care what you have in the 'aina you will lose what you have in the ocean. He doesn't know when it will come back until development has settled. He questioned when or whether there will be any run off because every developer has to buy the wells. No more water, there is no construction. Once the ocean dies its irreversible. With Kaloi Gulch there is only one beach and with all the 'opala (trash) you won't see it now until the big rain. It will end up like the Waimanalo Gulch because the reefs are too shallow and the 'opala will only go up and down the shoreline. He questioned where all the wastewater is going to go, in our ocean. He is against what Haseko is going after because of the health of his people. It becomes a health problem.

Mr. Murakami added to his testimony saying as a public trust resource, which this reef is, there are special rules about how a public agency is suppose to deal with that. One of those things is to consider alternatives. He commended Board member Agor for bringing up this point, but what he hears we are going to trade off if this permit is granted. Saving acreage for development in exchange for the liability of this reef that is really the trade off. If that is not an alternative he doesn't know what is. Yes, it will mean 11 acres less of something and it sounds puzzling why. If it becomes a potential Hawaiian Home Lands site to pit Hawaiian Homes against what the interest of preserving what this reef are, but if there are alternatives why can't it be in other lands – the golf course is a natural settling basin. You'll have 8 acres under water periodically, why can't it be the golf course as opposed to the reef which is a public trust resource over which you have a trust duty to protect reasonably. That is a good reason to point that out by Member Agor. Mr. Murakami heard in the presentation on what the trade off is and is that reasonable given the nature of the public trust of this resource and the important constitutional rights under Article 12, Section 7. He believes the Board's inherent concern, that resource base for Native Hawaiian cultural practices should be preserved at all costs in every reasonable way possible and he doesn't hear that reason in this argument.

Member Agor said he pays attention to run off historically and asked during the sugar era what happened to the reefs and limu there because he knows for a fact the run off from sugar land is far worst than what is happening today that he worked in the sugar plantation and it was nasty. What happened to the limu resources during that period? Mr. Chang Wu said there was too much nitron and it's been proven by one of the world's known scientist when this first came up. He described that when we have the natural resource he has a variety of native seaweeds which he named when the fresh water goes down the ocean. When he doesn't see those limu in the ocean he knows that they (development) cut off his river. As time goes on it will take your fragile limu and then the hardier limu and when these limu starts to go the ocean will be all muddy with silt which is what is going to happen to our ocean with all this 'opala coming down. Now you channelize Kaloi Gulch there is the 100 year rain without the retention dams you flood the golf courses and flood his park. When the park floods it's tells us we had a major storm all over the island. We are losing our natural resource and losing our limu big time. Our idea was to go out to the outside islands which we did and told them to take care of the 'aina because if

you don't and Mr. Chang Wu described a situation on Maui. It also becomes a health problem because they only have one beach.

Chair Aila commented that there is a contradiction. By retaining all the water mauka that is counter intuitive for him in terms of the statement just made of having fresh water run down and then having the limu associated with the fresh water as an indicator of the health of that reef... Mr. Chang Wu described the moku (district) 'o Ewa runs from Pualoa, the Airport all the way to the Ko'olau and goes west to your side just past the power plant on the left hand side is a small park where the moku 'o Ewa stops there. It runs all the way to the Waianae Range and they meet. If you look at our watershed, the mouth of Pearl Harbor and Kalaeloa Point, it had all the watershed that at Ewa Beach the water came up in the ocean. It's coming from the Ko'olau and the Waianae Ranges. If you stood on the beach looked mauka, Ewa is all coral, all porous ground and if you look at the horizon, looking 3 miles, 10 miles wide 60 feet shallow. He has one spot off of Hau Bush that is the deepest spot. All his resources has been cut off, his limu is gone and looking at the 'olelo (stories) of fish migrating to clean parasites when the water came in. The health of his ocean is dying because of the run off and if you channelize Kalo'i Gulch will get all your 'opala.

Mr. Murakami said that the retention basin is going to stop the water from going in, but you are asking whether that is inconsistent with the notion like Uncle Henry said you have fresh water out flow periodically to give a healthy eco-system to the limu to continue growing. He didn't think it's inconsistent about what Uncle Henry is saying. His basic point is if you channelize and you concentrate fresh water and add a dose of glutens at the same time and then let that out that can have a deteriorious affect on the coral, but left in its natural state fresh water going out into the ocean is not deteriorious especially if it is not polluted. Often times limu has a range of tolerance, the edible ones that requires fresh water out flow because it out competes with the non-voracious edible ones that take over if you cut that off. There is a balance of fresh water out flow that contributes to the health of the limu, but it can be disrupted by the more invasive limu to predominate over the edible ones. Or with pollutants in concentration could overwhelm that eco-system because of the heavy metals, etc. especially if allowed to flow out in significant amounts when channelized by up stream diversions. That is clear in other cases involving limu.

Mr. Lee said regarding Member Agor's question. The Ewa sugar plantation is different from that of the Hamakua, Big Island or Kauai where red mud comes down. Ewa is dried, porous coral which takes 6 feet of penetration of water to get into that coral before its super saturated to get run off. In the old plantation you have all that hectares of land open to have 6 feet of constant rain to penetrate before it can move. When it does happen and it moves towards the ocean where there is all this natural sand and the water comes up to the ponds which ponds by the beach as we've seen in the old days which is the retention pond at the ocean that they want to take down to make it swoosh right into the ocean. What that pond does is whatever muddy water there is now percolates and drains and leaves the 'opala on the land, the fresh water is a filter that goes into the ocean. There was filtered water under the plantation. We had 2 feet of limu back in the plantation days. Non-source point pollution was not getting into the ocean because of the natural filters that took place in that drainage system. When you put asphalt and concrete it cannot do that any more. Now you are putting more of that water from being super saturated 6 feet and now chanelizing it and increasing the volume into a narrow.

Mr. Lee said as for the Chair's question, it's incompatible because of all this retention pilau (stink) water. It is the same logical thinking that it percolates and that water is going to eventually simmer down into the strata because that is coral sub-strata there. It will then percolate and filter and the fresh water will spread out under ground and then hit instead of one massive dirty thing because you took out all the natural berm and stuff down. Does that answer both of your questions? Member Agor and the Chair answered in the affirmative. Mr. Chang Wu explained that Ewa was only top dry on the land with kiawe bushes that when it rains the kiawe bushes act as a filter. The plantation used to make use of the run off water. Ewa always had all the wells and had a lot of water under ground.

Member Agor pointed out whether Mr. Chang Wu knows that they are not developing that they are proposing to only lowering the elevation to take care of periodic storms. Mr. Chang Wu said it is one of the lowest spots that you're looking at. Now, look from the top. You are making my place like the Ala Wai Canal. No more outlet, everything going to come one time down here that all the rubbish from Makakilo will come to his side because at one time the flood control was supposed to be to the Marina. Member Agor said you understand that the retained water will filter underground. Mr. Chang Wu said all retained water is supposed to. It really is a health problem that you got to come down and look at the place.

Member Gon asked whether the recent rains in the last couple weeks were pretty heavy in Ewa and what was the response of the area to those rains. Mr. Chang Wu said before it would flood in certain areas, but the next day it was gone. But now, you went from the lowest part you had back filled like for a whole month. After Member Gon clarified his question, Mr. Chang Wu said it flooded the ground that they couldn't go down to the sea because of the berm, but now it wasn't as bad as the 40 days of rain which got bad. He referred to an alternate outlet for the water. Mr. Lee said Mr. Chang Wu is referring to the Papipi Road retention dam that didn't exist before which is like a pond built to percolate naturally as the day dries out.

Chair Aila asked how much more water will come over if they drop the berm versus how much will remain behind that and your concern is whether that excess water now allowed to enter the ocean could potentially have an impact on traditional customary practices. Mr. Lee said that is a natural filter and they (the applicants) are asking to take away the natural filter and allow the pollutants to go directly into the ocean and that is our argument. Mr. Murakami said as opposed to sediment basins that could be created. Mr. Lee agreed. Member Morgan clarified that they are not taking away the natural filter that they are asking to take away the natural filter for a certain specific amount of rain and are not taking away the whole filter. Mr. Lee said lets not use retention dams because when you go by Salvation Army where there is a humongous retention dam referring to the 2008 Kalo'i Gulch case, that dam would have been taken down. You guys are concentrating like a shell affect that one of the applicants said they want the retention dams used for their building purposes and they are saying to keep the retention dams and you keep the ocean alive. To sacrifice a million dollars worth of property that can be used and he would rather build up than build wide.

Amelia Gora testified that she descended from the konohikis for the area and that her families are the true title holders. She is against any destruction of the natural foundations and related when she was little standing on tons of limu in Ewa which doesn't exist anymore. It will be destroyed

totally if the developers have their way. Ms. Gora related who she is descended from that they are the title holders, they have konohiki rights and they support Mike Lee and his practices. They oppose to what the developers have.

Donna Kiyosaki, Vice-Chancellor for U.H. – West Oahu testified that she was here on behalf of Chancellor Gene Awakuni that they are here to support the application that their property has been the one being discussed about. They currently have plans for over 22 acres of retention/detention basins on the property.

Member Gon asked to clarify whether this property was mauka. Ms. Kiyosaki said it is below Farrington Highway next to Kapolei Parkway. They have 22 acres planned if the project goes through there will still be over 11 acres kept for retention/detention basins and that is to meet the water quality standards for the City and County and they would still make sure they impose that on us. Those basins would still be there and help to alleviate some of the land and she understands Member Agor's concern that land value should not be one of the issues. For the UH – West Oahu, our land surrounding the campus is our asset. The Legislature made it clear that as a state we cannot afford to build up and sustain a campus unless we are able to do it utilizing the private developable lands surrounding the campus. That is the way we planned and envisioned on growing our campus in Kapolei. Our mission is to help the underserved areas of Leeward, Central and North Shore because we have statistics that show the college rate is not very high in those areas and they are reaching out to those communities to try to help. Also, they have the highest numbers of Hawaiian students attending their campus and are trying to increase that. She related going to Ewa to pick ogo (seaweed) many years ago that they support this.

A query was made by Member Goode whether UH has to conform to the City's ordinances and would have to retain/detain a certain amount of excess run off water that they generate. Ms. Kiyosaki confirmed that is correct. Member Goode asked then you posted 22 acres and is that greatly in excess or was it done in this overall drainage plan that you had to do that as a temporary measure...Ms. Kiyosaki said because they are constrained at how much they can release down stream, correct. Member Goode continued saying there's about 20 now and will reduce down to 11 acres roughly. He asked can those 11 acres be increased to anybody saying deeper or some other improvements to retain as much water as possible. Ms. Kiyosaki said she's sure it can, but she is not an expert at the requirements of the drainage code by the City and County of Honolulu but that makes sense if it was something that needed to be done. She knows that the County could figure out how long the water would stay there depending on how much rain falls at a certain time period and that is how they determine what needs to percolate and what can go out being the cleaner top layer of water.

Sandy Pfund, Land Development Administrator for the Department of Hawaiian Homes Land (DHHL) representing their Chairman Alapaki Nahale-a testified that when they were asked to consider being a co-applicant for this CDUA permit, they considered it very carefully because they owe their beneficiaries and our Hawaiian Homes Land Trust (HHLT) to do what is right from a cultural practitioner stand point as well as our cultural lineal descendents. They did look at the technical reports that came out from the previous contested case hearing regarding the natural resources and found that it's a big scientific debate as you can imagine where it by and large felt it would be fair to go forward with the improvements of drainage that they had done

previously before that application. We were careful to talk to the Office of Hawaiian Affairs (OHA) and they checked with them as to whether or not they had any issues or concerns if they joined in as a co-applicant. They did say that they were not adverse for them to coming forward and based on that they will always be very sensitive to our HHLT and our beneficiaries. The situation we feel for our Home Lands is that they are putting up over a thousand homesteads for our Native Hawaiians. If the drainage improvements will help our Home Lands we feel it will be to our benefit. We reiterate what others have said that the retention/detention basins will not be taken away. There are some additional lands that may be increased for us to develop with these improvements, but those retention basins will not be taken away and those are for water quality. When the water flows down from the mauka areas through the basins it percolates down to try and save the mud and debris from going into the aquifers and down into the coral. With more improvements down stream a little bit more land could be made available.

David Tanoue, Director for the Department of Planning and Permitting, City & County of Honolulu testified in appreciation because of this challenging permit. The Department was asked to participate where they were the co-applicant in order for the administrators and implementers for the Ewa Development Plan and the City's General Plan this is a key component for future continued development of the City of Kapolei and Ewa as the primary urban area. We wanted to explain their decision making process and to look at this proposal as a lesser balance to address the drainage situation. Mr. Tanoue related coming from a plantation on Maui and how the Iao River was like chocolate milk after the rains. Even in the old days at Kahuku it never used to flood because the plantation bulldozed the berm to drain out the water, but things are different these days with drainage standards in place. As mentioned previously of the City's drainage standards you are required to discharge the natural discharge for the area. There are a lot of required retention and detention basins and they pre-treat the water before releasing it out whether it's in the City's drainage system or in the natural drainage canals. As mentioned earlier, the Kaloi Gulch Drainage Master Plan is 3 golf courses and the primary reason is for drainage. The Ewa Villages golf course takes the brunt of the initial rush when they have a major rainfall. The golf course operators complain about the debris left, but they say its doing its job and that is what it was meant to do. Because it's next to agriculture, the more vacant areas get that runoff full of dirt and pre-treats the water before it passes along. In this situation, on the down stream there is the Coral Creek Golf Course which is designed to and meant to flood and pre-treat. Further down is the Haseko Golf Course and that is what it is designed to do too. Finally when it comes to the beach with a 500 foot wide earth channel and as a user of the beach park it will be landscaped grassy and you wouldn't really notice it, but if the water ever fills up 500 feet at the 400 foot it will spill over and you would need a near catastrophic storm event for the water to do that. On both sides of the park there are artificial discharge points with drainage canals already there. The off shore waters will be full of that kind of run off particularly from the other drainage basin systems already in place. What is being proposed is to try to be the least intrusive and try to balance what planning development can move forward taking into account only those severe situations that the water will actually over top and spill over on to the beach area.

Ms. Gora testified that there are a lot of on-going issues and the landowners aren't here that she is one of them. She feels these people have no say on what they want to do with the run off and all of that and she admonishes Haseko for trying to contaminate our waters and our land areas

that it is not ok to muck it up. Chair Aila said you already made that point before and are repeating what you said before.

Chair Aila asked how many events would be anticipated per year if the level (of the berm) was dropped. Mr. Lemmo said he didn't think any per year because it's based on a 10 year probability which you can give or take in many, many years that it is a very conservative estimate for flood control purposes.

Member Goode pointed out on page 13 of staff's report a 10 year event is an 8 inch rain fall in 24 hours is a lot of rain which can happen. Up to that the water will be retained throughout the golf courses, basins, DHHL, UH – West Oahu and also at the outlet where all of it will be retained. Anything above that 8 inch event starts to spill out into the ocean. An 8 inch event there is a lot going on everywhere. Mr. Lemmo said theoretically 8 inches can happen in a relatively small area. There are a lot of questions regarding that particular issue.

Member Gon asked to summarize what the situation would be if the berm was not lowered. Mr. Lemmo said this is a lay perspective that he is not an expert and he is not a land owner. But, from reading everything it just seems to me that if the berm is not lowered it will foreclose some opportunities for development of some of the lands in the mauka areas which will constrain future development to some extent and would certainly affect Haseko because it would severely limit what they can do because they are going to be taking the brunt of the water if the berm is not lowered that water will build up and could create a flooding situation there. To me you're in a difficult situation. What you do can affect State and County plans for planned development of the West Oahu area. Staff was cognizant of that and we felt the recommendation is the best they could do for this Board and for this public. Like he said it's a natural berm and it doesn't appear that it will over top frequently.

Member Morgan asked in this 8 inch, 10 year storm there is water hitting the ocean all over the place that it happens everywhere that you have this brown influx of fresh water and it's always brown no matter where it's coming from referring to the undeveloped Windward side like Kahana. They overlap don't they? Your average 10 year storm in this area will likely be brown that the whole coast would be brown as far as its going and this is not going to be the only place mixed in with all that. Mr. Lemmo said if we had an event that resulted in a flow then you are going to have major effluent from other sources as well – non-point and point.

Member Morgan commented that it is a difficult decision that you have potential impact, it's a scientific debate and that is what it all comes down to. There is somewhat empirical data that says this 10 year event is going to make an impact to up stream users and it might negatively impact some resources. That is a difficult thing when you are trying to look at all these possible impacts, but from my perspective it's a reasonable project and he also supports this project.

Member Edlao commented on his earlier discussion on maintenance that when the heavy storms come through you guys are going to clean out the heavy sediment and one of the concerns was you guys include the water quality monitoring, but then again not just to do the water quality but maybe collaborate with other applicants and explore collective measures at that time talking to Haseko. He didn't think they were opposed to doing this during heavy storms, but doing nothing

afterwards doesn't make sense. If there is something in there maybe you guys could explore what it is and what can be done to correct or mitigate that action. He would appreciate putting it in as a condition or just on record as they discussed that he would be happy with that.

Member Gon made a comment that like fellow Member Agor he takes his trust responsibilities very seriously and the whole situation in Ewa or any time when you are taking an area that did not have impervious surfaces or the additional output on the scale of the development we are talking about there means that we are going to run into problems of this sort that it will likely increase over time. When you look at 10 year events it becomes a normal thing which would happen on the order of 10 years or the like, but the nature of it is radically changed because it is no longer the waters coming from the mountain into the Ewa Plains and percolating down into that vast area and coming slowly out to the system, but instead get channeled and runs in a more sufficial kind of way. It suggests to him that this is symptomatic of a much larger issue over the entire watershed and those multiple watersheds that feed into the Ewa Plains. If we're going to be real concerned about this kind of thing then we really have to bolster not only the mitigative responses when there are events of this sort, but to really think hard about how we can better prevent those things. He loves the idea that there is a comprehensive drainage plan for that development that goes up there, but he wondered whether they thought hard enough about whether or not they are adequate. There is always that push between maximizing the amount of land that can be used for universities or housing, etc. against what the actual system relies upon in order to ensure that correct inter-change between sediments, nutrients, water on the land and into the sea. It is a hard one for him and the lowering of the berm is tiny bit of that. He is willing to entertain this particular proposal, but he really implores a good second, third, fourth, a continual look at improving our comprehensive drainage and natural process items as Ewa continues to develop. Otherwise, it will turn into the entire impervious surface drainage system that we got in Downtown Honolulu or across East Honolulu. He wants to make sure as they look ahead that they don't look 20 years down the line at this particular meeting and say this was the form to which Ewa just turned into another impervious surface of urban development and both land and sea was destroyed by it. He hoped that all the parties involved in this room take that very seriously with regard to the cumulative and future affects that are going on and this one item makes us think harder about those kinds of consequences.

Mr. Murakami spoke saying he had a procedure to raise that they have an outstanding request for a contested case hearing if this Board does not deny this permit and in his mind that means legally you cannot proceed. From this discussion he has the understanding that there is some ability to approve this. Member Edlao said a decision hasn't been made yet. Mr. Murakami said yes, but the contested case has to be dealt with first. The correct procedure is not to proceed with an affirmative vote grant, but if there is no grant in motion to deny this permit than this should be consigned to a contested case hearing first. Chair Aila said we've gone through this before. Our legal advisor is saying we can move forward. Mr. Murakami said he wanted to make sure the Board understand it is on record. The Chair said they understand that and have done this before.

Member Edlao asked Haseko whether they are not opposed to water quality monitoring and exploring corrective measures and to be heard on record. Ms. Izu said absolutely, that Haseko agrees. In the past, during the last contested case Haseko had a hard time getting all the stakeholders together, but this time around all the stakeholders are in coordination. Absolutely,

they would be happy to do exactly as you request. Member Edlao pointed out as Member Gon had said about cumulative affect that they hope down the future that this project is not the cause of any whole affect. In his mind, if they put something like this in over here it is a start and appreciates them doing that. Ms. Izu thanked him and said yes, we'd be more than happy to abide by those requests.

Member Agor said he is going to support the project totally based on the idea that natural flows minus manmade flows should be allowed to go into the ocean. Especially on a 10 year period that it's just a natural thing and it helps the ecosystem. He is a firm believer of engineering principles, drainage and he has faith in it. He has faith in the fact that society now is moving towards preventing chemical pollutants in our storm drain system and society will continue to work on that as well as this entire group. Any water that is going to be released hopefully will be minimized in terms of having chemical manmade produced pollutants. He has faith in the system and supports this project.

Member Morgan made a motion to approve and was open to an amendment if the Chair wants to make one. Member Edlao said he thinks we need to put it in as a condition. Member Morgan moved to approve staff's submittal. Member Edlao seconded it. All voted in favor.

Chair Aila said both parties (Mr. Lee and Mr. Murakami) requested for a contested case hearing independently and that you have 10 days to follow up with the written (petition).

**Unanimously approved as submitted (Edlao, Morgan)**

**Item M-1 Issuance of a Fixed-Based Facility Lease and Addendum Universal  
Enterprises, Inc., Lihue Airport, Lihue, Kauai, TMK: (4) 3-5-01: portion of 8**

Kelly Okumura representing Department of Transportation (DOT) – Airports Division, Property Management requested a deferral of item M-1 to resolve some of the environmental issues. Deputy Attorney General Linda Chow said there was an issue that was raised regarding 343 compliance.

**DEFERRED (Edlao, Gon)**

**Item M-2 Modification #5 to Master Lease No. DOT-A-07-0013, FAA Agreement No. DTFAWP-07-L0-00044, Federal Aviation Administration (FAA) Honolulu International Airport**

Ms. Okumura reported on item M-2 that this modification involves the replacement, re-conditioning and additional electrical connections to the electrical line distribution system for the Airport runway system.

**Unanimously approved as submitted (Morgan, Gon)**

**Item M-5 Issuance of Direct Lease to Hilton Resorts Corporation, Honolulu International Airport (HNL), Honolulu, Island of Oahu, TMK: (1) 1-1-03: portion of 50, as shown and delineated on the attached map labeled Exhibit A.**

Ms. Okumura conveyed some background on item M-5 that this for the courtyard area which has some vacant lounge easements for a 5 year period.

**Unanimously approved as submitted (Morgan, Goode)**

**Item M-3 Consent to Assignment of State Lease No. DOT-A-05-0007 Air Molokai, Inc. to Helicopter Consultants of Maui, Inc., Honolulu International Airport (HNL), Honolulu, Island of Oahu, TMK: (1) 1-1-72:79**

Abby Lareau representing Department of Transportation – Airport’s Management presented item M-3.

**Unanimously approved as submitted (Edlao, Gon)**

**Item M-6 Issuance of a Direct Lease to Straube's Aircraft Services Hawaii, Inc., Kalaeloa Airport, Island of Oahu, State of Hawaii, TMK: (1) 9-1-13:32 (portion)**

Ms. Lareau briefed the Board on item M-6 that this is a 25 year lease to develop and lease a hangar facility.

**Unanimously approved as submitted (Goode, Morgan)**

**Item M-4 Amendment No. 10 to Lease No. DOT-A-03-0001 Travelers Services Concession Lease, Lenlyn Limited, Honolulu International Airport (HNL), Honolulu, Island of Oahu, TMK: (1) 1-1-03: portion of 1**

Joanne Izumi and Edona Queja representing DOT – Airports Division where Ms. Queja said that their Department is requesting the Board’s approval for item M-4 for a concession located on the Diamond Head end of the airport.

**Unanimously approved as submitted (Morgan, Gon)**

**Item C-1 Mutual Cancellation of Perpetual, Non-Exclusive Access Easement; Issuance of Perpetual, Non-Exclusive Easement for Access Purposes; Issuance of Management Right-of-Entry; St. John Lutheran Church, Kailua, Koolaupoko, Oahu, Tax Map Key: (1) 4-2-016: portion of 015.**

Jason Miyasaki representing Division of Forestry and Wildlife (DOFAW) informed the Board that this is to cancel the current easement to address some of the features there with the new easement and to clean up the easements on the property. The other is to issue a Management

Right-of-Entry permit for the Church to proceed with the work they proposed in the meantime while staff processes the easement.

**Unanimously approved as submitted (Morgan, Gon)**

**Item F-7 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Frank Parrish and Alecia Van Atta, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, for Access to State Waters to Conduct Shark Removal Activities**

**Request for Approval of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200 HAR, for Environmental Assessment Requirements for Permit PMNM-2011-013**

Dr. Bob Nishimoto representing Division of Aquatic Resources (DAR) reported that he is not a shark or seal expert, but will summarize this group effort and if the representatives want to clarify some of the explanation it would be fine and that is his request to the Chair. Dr. Nishimoto presented some background information from the submittal on item F-7. He asked to amend on the first page the date on the line after French Frigate Shoals to read May 31, 2013 instead of May 31, 2012. The applicant needs to remove a maximum of 18 Galapagos sharks which is the only species positively identified for pursuing, injuring or killing pups as observed through the last 10 years. The sharks would be caught either by hand line, hand held harpoon, drum line and/or small 10 hook bottomset and the "Net Surprise" which the Board has heard previously. If a shark is caught it will be brought to shore or along side a small boat, tail roped and humanely killed with a bang stick. Dr. Nishimoto went over the questions raised on page 3 and 4, the comments raised by the Native Hawaiian community, the public and additional reviews and permit history on page 5. On page 6, staff's opinion and the Monument Management Board opinion supports the proposed activity. He read staff's recommendations on page 7.

Member Morgan pointed out that there is a lack of reference to rogue sharks as opposed to previous submittals and asked is it now typical behavior of Galapagos sharks? Dr. Nishimoto answered yes.

Dr. Charles Littnan testified that maybe the term rogue is mixed up with their rogue male monk seals that are aggressive. It is still a small subset, very atypical behavior. He doesn't know about learned transmission of behavior, but based on the work and all of their observations they are still working on the available science for a very small group. Member Morgan asked whether it's not just random sharks. Dr. Littnan said no, that is one of the primary drivers that make this thing. The option is the way we catch sharks that it's smaller.

Member Edlao asked this has been going on a long time and it's been narrowed down to the Galapagos sharks. What is the population and what is attracting these sharks to this place or are they coming from somewhere else? Dr. Littnan said there a few population assessments that

range anywhere from 600 to a couple thousand. Galapagos sharks are doing well throughout the Northwest Hawaiian Islands. They will propose 20 sharks from 18 now and will have a huge benefit to monk seals in terms of decreasing mortality, but not impact the overall population of Galapagos sharks.

Member Edlao asked when you catch a shark how will you know if it is aggressive or not. If that is the case why not get 10 guys with bang sticks and bang them all. Dr. Littnan agreed and said that it's really frustrating for the Board to say that is really poor progress if you are only catching one shark per year and penalizing or criticizing us for trying to be conservative. If you talk to any specialist, typical Galapagos shark behavior is on the outside of the atolls. In French Frigate Shoals these sharks traverse shallow areas usually to get from one end of the atoll to the other end. Dr. Carl Meyer's data shows a few subsets of animals go to visit other islands and that's what we've seen from our observation. We don't want to wholesale remove Galapagos sharks because it would be like shooting fish in a barrel and would be unproductive. But by being conservative by targeting the areas with populations or islets that are suffering this predation, shark experts tell us it is such an odd behavior for these sharks to be in shallow water that the odds are likely some sharks are participating in that behavior. If there is an animal there, it's likely one of the sharks doing this.

Member Edlao asked what he contributes to pup survival rate, is it because they are a year older, faster, smarter, and more elusive or what would you contribute that to. Dr. Littnan explained that monk seals are suckling for 6-8 months and then they are weaned. The pups they see being taken are suckling within a couple weeks and it seems to be once they are 8 or 10 weeks old that predation threat disappears and it maybe because they are more agile, more aware, we don't know, but that is why it is more important to get them in those translocations to get them to somewhere safe. There is a higher survival rate after 1 year because they are a larger animal that can swim faster and are more knowledgeable. Survival rate from 1 to 2 and 2 to 3 has jumped up. That greater survival over the age of 1 increases the value of this potential recovery activity of removing sharks. The bottleneck is the loss of these pups due to shark mortality.

**Unanimously approved as amended (Morgan, Agor)**

**Amended staff's submittal, first page, the line after French Frigate Shoals from May 31, 2012 to May 31, 2013. Otherwise, staff's submittal was approved as submitted.**

**Item C-2 Request for Approval to Enter into a Cooperative Agreement with the U.S. Forest Service to Participate in the Department of Defense Firefighter Program (FFP)**

Scott Fretz representing Division of Forestry and Wildlife (DOFAW) conveyed some background on item C-2 that this program is a benefit to the Division because it allows them to acquire surplus equipment.

**Unanimously approved as submitted (Goode, Agor)**

**Item D-2 Forfeiture of General Lease No. S-4786, Hilo Trading Co., Ltd., Lessee, Waiakea, South Hilo, Hawai'i, Tax Map Key:3<sup>rd</sup>/2-1-03:08.**

Russell Tsuji representing Land Division said to withdraw this item because the tenant paid. No motion needed.

**WITHDRAWN**

**Item D-1 Issuance of Right-of-Entry to the United States Department of Agriculture (USDA) Forest Service and Research Corporation of the University of Hawaii (RCUH), for Forest Data Collection Purposes, at Puna and North Hilo, Hawaii, Tax Map Key: (3) 1-2-007:023 and 3-6-006:031.**

**Item D-3 Amend Prior Board Action of October 28, 2011, To Include a Pipeline C to the Amendment and Restatement of Grant of Easement No. S-27,613 to Napuu Water, Inc. for Water Transmission and Storage Purposes, Puuwaawaa, North Kona, Hawaii, Tax Map Key: (3) 7-1-001: portion of 006.**

**Item D-4 Amend Prior Board Action of October 28, 2011, Item D-21 for the Issuance of Revocable Permit to Terrance P. Kaialii Akuna by Eliminating the Requirement that the Rent be Determined by a Staff Appraiser, Wailua Homesteads, Koolau, Hana, Maui, Tax Map Key: (2) 1-1-004:018.**

**Item D-5 Amend Prior Board Action of November 10, 2011, Item D-11 for the Cancellation of Revocable Permit Number S-7059 to Julia Kaiwi, Deja Kaiwi, and Randall Manaba, and Issuance of a New Revocable Permit to Julia Kaiwi and Deja Kaiwi by Eliminating the Requirement that the Rent be Determined by a Staff Appraiser, at Kahakuloa, Wailuku, Maui, Tax Map Key: (2) 3-1-004:046, 056, 059, and 061.**

**Item D-6 Rescind Prior Board Action of November 12, 2010, (Agenda Item D-5) for Issuance of a Revocable Permit to Molokai Canoe Club, Kaunakakai, Molokai, Maui, Tax Map Key: (2) 5-3-001:Por. 002.**

**Item D-7 Issuance of Right-of-Entry Permit to Fireworks by Grucci, Inc. for Set up and Firing of Aerial Fireworks Display on March 28, 2012, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).**

**Item D-8 Issuance of a Right-of-Entry Permit to Na Wahine O Ke Kai for a Canoe Race Event to be held on September 23, 2012, at Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portions of 021.**

**Item D-9 Issuance of a Right-of-Entry Permit to Oahu Hawaiian Canoe Racing Association for a Canoe Race Event to be held on October 7, 2012, at Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portions of 021.**

There were no changes to the above items per Mr. Tsuji.

**Unanimously approved as submitted (Gon, Morgan)**

**Item E-1 Request to Execute a Contract with Kauai Planning & Action Alliance Inc. (KPAA) to Utilize Funds as Authorized by Section 62, Act 162, Session Laws of Hawaii (SLH) 2009, for the Reconstruction of the Kalalau Trail located in the Napali Coast State Wilderness Park, Kauai**

Curt Cottrell, Assistant Administrator for State Parks distributed a photo and handout and conveyed some background on item E-1 where they get 12,000 hikers a year on this trail. He described the condition of the trail going to Hanakapiai where the mitigation was done well and held up to the storms. The Legislature appropriated the second grant-in-aid for about 7 miles, but staff is going to work on the sections that are most critical for the sum total of 7 miles all the way in to Kalalau. This will take about 6 to 8 months to do with a helicopter.

**Unanimously approved as submitted (Agor, Gon)**

**Item E-2 Request for Approval of the Placement of Act 82, SLH 02, Warning and Management Signs at Identified Locations of Wai'anapanapa State Park, Pua'a Ka'a State Wayside and 'Iao Valley State Monument, Maui**

Mr. Cottrell reported that with the recent settlement with Opaeka'a Falls these signs become more important which brings up our protection by warning the public of potentially hazardous situations. They vetted this through the Risk Assessment Working Group and there were no comments. The follow up is maintaining the signs. There is a flaw to the agenda title that it is Act 82, SLH 003 and not 02.

Member Edlao asked whether there are pictograph signs for non-English speakers and Mr. Cottrell confirmed that they do. The signage is well vetted.

Member Goode said he remembers what the sign looks like, but he couldn't see coming to the Land Board to authorize a park to put up signs. If they have to do it they have to, but they should consider giving the Chair a blanket authority to put up signs where needed in hazardous conditions that we're wasting valuable time here. Mr. Cottrell agreed. But, it is in the Administrative Rules that the Board approves the location and he would have to defer to the Deputy AG on that interpretation whether the Board can give authority to the Chair. Mr. Cottrell supports that notion, but he wouldn't want to do anything that jeopardizes them in court later on. Member Morgan suggested the next time he comes in with signs as a submittal to see if we can give the authority to the Chair if it's possible.

**Unanimously approved as amended (Edlao, Gon)**

**The Board amended the agenda title from Act 82, SLH 02 to Act 82, SLH 003. Otherwise, the submittal was approved as submitted.**

**Item F-1 Request for Approval to Add Federal Funding (\$330,000) and Extend through FY13 the Department of Land and Natural Resources**

**(DLNR)/University of Hawaii (UH) Contract No. 60379 (Supplemental Contract No. 1) for a Project Titled “Collaborative Administration of the Hawaii Fish Aggregating Device System”**

**Request for Approval of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200 HAR, for Environmental Assessment Requirements for Contract No. 60379, Supplemental Contract No. 1**

**Item F-2 Request for Approval to Add Federal Funding (\$390,000) and Extend through FY13 the Department of Land and Natural Resources (DLNR)/University of Hawaii (UH) Contract No. 60394 (Supplemental Contract No. 1) for a Project Titled “Evaluating the Effectiveness of Restricted Fishing Areas for Improving the Bottomfish Fishery”**

**Request for Approval of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200 HAR, for Environmental Assessment Requirements for Contract No. 60394, Supplemental Contract No. 1**

**Item F-3 Request for Approval of a No-Cost Extension through FY13 of the Project Agreement (Contract No. 52850, Amendment No. 10) between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RCUH) for a Research Project Titled “Aquatic Invasive Species”**

**Request for Approval of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200 HAR, for Environmental Assessment Requirements for Contract No. 52850, Amendment No. 10**

Dr. Nishimoto noted for item F-3 that staff was informed that this did not need Budget and Finance approval.

**Item F-4 Request for Approval to Add Federal Funding (\$280,000) and Extend through FY13 the Project Agreement (Contract No. 58627, Amendment No. 3) between the Board of Land (BLNR) and the Research Corporation of the University of Hawaii (RCUH) for a Division of Aquatic Resources Research Project Titled “Maui/Oahu Marine Resources Assessment”**

**Request for Approval of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200 HAR, for Environmental Assessment Requirements for Contract No. 58627, Amendment No. 3**

**Item F-5 Request for Approval to Add Federal Funding (\$520,000) and Extend through FY13 the Project Agreement (Contract No. 60395, Amendment No. 1) between the Board of Land (BLNR) and the Research Corporation of the University of Hawaii (RCUH) for a Division of Aquatic Resources Research Project Titled "Investigation of Estuarine Habitats"**

**Request for Approval of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200 HAR, for Environmental Assessment Requirements for Contract No. 60395, Amendment No. 1**

**Item F-6 Request for Approval to Add Funding (\$543,750 Federal, \$134,250 Commercial Fisheries Special Fund) and Extend through FY13 the Project Agreement (Contract No. 60393, Amendment No. 1) Between the Board of Land and Natural Resources (BLNR) and the Research Corporation of the University of Hawaii (RCUH) for a Division of Aquatic Resources Research Project titled "Hawaii Marine Recreational Fishing Survey"**

**Request for Approval of Exemption from the Preparation of an Environmental Assessment under the Authority of Chapter 343, HRS, and Chapter 11-200 HAR, for Environmental Assessment Requirements for Contract No. 60393, Amendment No. 1**

Dr. Nishimoto had no changes to the above agenda items.

**Unanimously approved as submitted (Morgan, Edlao)**

**11:09 AM RECESS**

**11:14 AM RECONVENED**

**Item L-1 Appointment of Oliver English as Puna Soil and Water Conservation District Director**

Carty Chang representing Engineering Division said there were no changes to items L-1, L-2 and L-3, but there was written testimonies on item L-1.

Member Goode asked for a refresher on exactly what these appointments do on behalf of the Department and what the roles are as directors. What decision making authority they may have or recommendations.

Alyson Yim from Engineering Division explained that there are 6 districts statewide and each district is governed by 5 directors, 3 of which are elected and 2 are appointed upon recommendation of that Board. Staff brings that to the BLNR for approval either by certification of election or approval of the recommendation of appointment. The districts main purpose is to prepare and approve conservation plans by the land occupiers and that is their main voting thing

and that is the perceived conflict in this proposed director. Mr. Chang said for the funding a portion comes from General Funds appropriated to the Department and our program and the rest of the funding source is through grants. Ms. Yim said that each County provides different amounts of money to support their programs.

Member Goode queried typically landowners are on conservation boards and if a particular landowner has a project and is trying to get a conservation permit, CDUP, for approved plans wouldn't they recuse themselves from voting on their own project. Ms. Yim and Mr. Chang confirmed that. Member Goode said in his experience with most of these everyone is a landowner, works for a landowner or is in that business to understand what is presented. As far as a conflict goes it's inherent with most of our directors and they recuse themselves. Ms. Yim acknowledged that. Because all the directors have to live or work in the district they are representing.

There were some Board discussions on the testimonies.

**Unanimously approved as submitted (Goode, Morgan)**

**Item L-2      Declare Project Exempt from Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules for Job No. B94DK71A, Port Allen Small Boat Harbor, Loading Dock Repairs Eleele, Kauai, Hawaii**

**Item L-3      Declare Project Exempt from Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules for Job No. B71DO71F, Ala Wai Small Boat Harbor, 700 Row Category "B" and "C" Pier Improvements, Honolulu, Oahu, Hawaii**

Mr. Chang said he had no changes to items L-2 and L-3.

**Unanimously approved as submitted (Agor, Gon)**

**Adjourned**

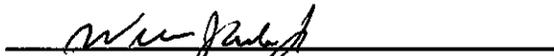
There being no further business, Chairperson Aila adjourned the meeting at 11:19 a.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings  
Land Board Secretary

Approved for submittal:



William J. Aila, Jr.  
Chairperson  
Department of Land and Natural Resources